

**Department of Legislative Services**  
Maryland General Assembly  
2024 Session

**FISCAL AND POLICY NOTE**  
**First Reader - Revised**

Senate Bill 110

(Senator Hershey)

Budget and Taxation

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**School Construction - Local Cost-Share - Alterations**

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This bill creates a new adjustment to the local and State cost share of school construction projects that meet specified criteria. To be eligible for the adjustment (1) the percentage of students in the county eligible for free or reduced-price meals (FRPM) must be greater than the statewide average; (2) all schools in the county must participate in the U.S. Department of Agriculture’s Community Eligibility Provision (CEP); (3) the State and local cost share must be 50% State and 50% local; and (4) the eligible project must be a school that is the only elementary, middle, or high school in the county. Counties with eligible projects must have the local cost share for that project reduced to equal the average cost share of counties in which all schools participate in CEP. The State cost share must be adjusted upward proportionally to cover the difference in funding. **The bill takes effect July 1, 2024.**

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**Fiscal Summary**

**State Effect:** No effect on total funding for school construction as that amount is determined annually by the Governor and General Assembly through the capital budget process. However, to the extent that the State cost share is increased for eligible projects, fewer State funds are available for public school construction projects in other local school systems. The Interagency Commission on School Construction (IAC) can implement the changes with existing resources. Revenues are not affected.

**Local Effect:** Revenues from the State for school construction projects increase in any local jurisdiction with an eligible project (currently only Kent County) beginning in FY 2025. As the bill does not affect the overall level of school construction funding available, revenues from the State for school construction projects likewise decrease in jurisdictions without eligible projects.

**Small Business Effect:** None.

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## Analysis

**Current Law:** For an overview of State support for public school construction, including a discussion of the State share of eligible school construction costs, please see the **Appendix – State Funding for Public School Construction**.

As part of its administration of public school construction funding, IAC must adopt regulations to establish a comprehensive State and local cost-share formula for each county that identifies the factors used in establishing the formulas and the actual State and local cost-share percentages generated by the formula for each county. In early calendar 2023, IAC approved a plan to review and update the State cost-share formula before summer 2025. IAC advises that the agency is currently undertaking work to evaluate the appropriateness of the factors in the existing State cost-share formula as well as other potential factors that might bring the State cost-share formula into better alignment with other State funding mechanisms and current conditions to foster increased equity across the counties.

**State Expenditures:** As shown in **Exhibit 1**, Kent County is the only county that meets all of the bill’s criteria for an adjustment to the State-local cost share. For fiscal 2025 and 2026, only six counties – Anne Arundel, Kent, Montgomery, Queen Anne’s, Talbot, and Worcester – have a [State and local cost-share](#) formula that is 50% State and 50% local. Of those, only Kent County has one middle or high school in the entire county (no counties have only one elementary school).

The Maryland State Department of Education (MSDE) advises that there are currently 7 jurisdictions including Baltimore City and Baltimore, Caroline, Dorchester, Kent, Somerset, and Wicomico counties in which all schools participate in CEP. According to the [most recently published data from MSDE](#) for fiscal 2023 (school year 2022-2023, collected October 31, 2022), 13 jurisdictions – Baltimore City and Allegany, Baltimore, Caroline, Cecil, Dorchester, Garrett, Kent, Prince George’s, Somerset, Talbot, Washington, Wicomico counties – have FRPM percentages greater than the statewide average.

**Exhibit 1**  
**Local Cost Share Adjustment Eligibility**

<b><u>Jurisdiction</u></b>	<b><u>FRPM % Above Statewide Average (As of October 31, 2022)</u></b>	<b><u>All Public Schools Participate in CEP</u></b>	<b><u>50/50 State Cost Share (FY 2025 and 2026)</u></b>	<b><u>Only One Elementary, Middle, or High School</u></b>
Allegany	X			
Anne Arundel			X	
Baltimore City	X	X		
Baltimore	X	X		
Calvert				
Caroline	X	X		
Carroll				
Cecil	X			
Charles				
Dorchester	X	X		
Frederick				
Garrett	X			
Harford				
Howard				
<i>Kent</i>	X	X	X	X
Montgomery			X	
Prince George's	X			
Queen Anne's			X	
St. Mary's				
Somerset	X	X		
Talbot	X		X	
Washington	X			
Wicomico	X	X		
Worcester			X	

CEP: Community Eligibility Provision

FRPM: free or reduced-price meals

Source: Interagency Commission on School Construction; Maryland State Department of Education; Department of Legislative Services

Currently, Kent County has a 50% State and 50% local cost share for school construction projects. The average fiscal 2026 State cost share for jurisdictions with all schools participating in CEP (Baltimore City and Baltimore, Caroline, Dorchester, Kent, Somerset,

and Wicomico counties) is 84%, and the average local share is correspondingly 16%. Therefore, for projects relating to Kent County's one middle or high school, the local cost share would decrease by 34 percentage points to 16% and the State cost share would increase proportionally to 84%. IAC advises that an increased State share of this size will result in the State funding a smaller number of projects statewide with available funds.

**Local Revenues:** To the extent Kent County receives a cost-share adjustment for a project, local revenues from the State share of construction funding for that project increase by 34 percentage points above the county's usual 50% State share. Since overall funding for school construction is not changed in the bill, IAC will need to divert funds from other projects to support the increased cost share. IAC advises that this will result in fewer projects being funded overall. Revenues therefore decrease in counties without eligible projects.

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### Additional Information

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** HB 365 (Delegate Ghrist, *et al.*) - Appropriations.

**Information Source(s):** Maryland Association of Counties; Maryland State Department of Education; Interagency Commission on School Construction; Department of Legislative Services

**Fiscal Note History:** First Reader - January 16, 2024  
rh/mcr Revised - Correction - January 17, 2024  
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Analysis by: Michael E. Sousane

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510

## **Appendix – State Funding for Public School Construction**

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### *School Construction Review and Approval Process*

The Interagency Commission on School Construction (IAC) manages State review and approval of local school construction projects. Each year, local systems develop and submit to IAC a facilities master plan that includes an analysis of future school facility needs based on the current condition of school buildings and projected enrollment. The master plan must be approved by the local school board. Subsequently, each local school system submits a capital improvement plan to IAC that includes projects for which it seeks planning and/or funding approval for the upcoming fiscal year, which may include projects that the local system has forward funded. In addition to approval from the local school board, the request for the upcoming fiscal year must be approved by the county's governing body. Typically, the submission letter to IAC contains signatures of both the school board president and either the county executive and county council president or chair of the board of county commissioners.

Based on its assessment of the relative merit of all the project proposals it receives, and subject to the projected level of school construction funds available, IAC determines which projects to fund through the Public School Construction Program (PSCP). By December 31 of each year, IAC must approve projects comprising 75% of the preliminary school construction allocation projected to be available by the Governor for the upcoming fiscal year. Local school systems may appeal these preliminary decisions by IAC. By March 1 of each year, IAC must recommend to the General Assembly projects comprising 90% of the allocation for school construction submitted in the Governor's capital budget. Following the legislative session, IAC approves projects comprising the remaining school construction funds included in the enacted capital budget, no earlier than May 1. The final allocations are not subject to appeal.

### *Built to Learn Act*

The Built to Learn Act was enacted as Chapter 20 of 2020, but it was contingent on the enactment of House Bill 1300 of 2020 (Blueprint for Maryland's Future – Implementation). As House Bill 1300 was vetoed by the Governor, the Built to Learn Act took effect in January 2021 when the General Assembly voted to override the Governor's veto of House Bill 1300.

The Built to Learn Act authorizes the Maryland Stadium Authority (MSA) to issue up to \$2.2 billion in revenue bonds, backed by annual payments from the Education Trust Fund beginning in fiscal 2022, for public school construction projects in the State, including to

support a public-private partnership agreement to build six new schools in Prince George’s County. Proceeds from the revenue bonds are in addition to funding available from PSCP and are allocated among local school systems as shown in **Exhibit 1** (based on MSA’s most recent projection of anticipated revenues of \$1.7 billion given increases in interest rates since the program’s enactment). Funds must be used to build or renovate schools within 10 years.

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**Exhibit 1**  
**Allocation of Built to Learn Bond Sale Proceeds**  
**(\$ in Millions)**

	<u>Percent of Total</u>	<u>Proceeds</u>
Anne Arundel	12.5%	\$212.5
Baltimore City	21.0%	357.0
Baltimore	21.0%	357.0
Frederick	5.1%	86.7
Howard	6.6%	112.2
Montgomery	21.0%	357.0
Prince George’s	*	*
All Other Counties	11.5%	195.5
Unallocated/Maryland Stadium Authority	1.3%	22.1
<b>Total</b>	<b>100.0%</b>	<b>\$1,700.0</b>

\* Under Chapter 20 of 2020, as amended by Chapter 679 of 2023, Prince George’s County receives \$27.0 million annually for up to 30 years to supplement local funds for an availability payment if it enters into a public-private partnership agreement, subject to other provisions in the Act.

Source: Department of Legislative Services

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The Built to Learn Act also (1) extends mandated funding for the Healthy School Facility Fund (HSFF) by three years, through fiscal 2024, with at least \$30.0 million in fiscal 2022 and at least \$40.0 million in each of fiscal 2023 and 2024; (2) raises the mandated annual funding level for the Enrollment Growth or Relocatable Classrooms (EGRC) program from \$40.0 million to \$80.0 million beginning in fiscal 2027; and (3) creates the Public School Facilities Priority Fund to provide State funds to address the facility needs of the highest priority schools identified by the statewide facilities assessment completed by IAC. In fiscal 2025 and 2026, the Governor must appropriate at least \$40.0 million to the fund. Beginning in fiscal 2027, the mandated annual appropriation increases to at least \$80.0 million. Although mandated funding levels for fiscal 2022 were not required due to

the delay in Chapter 20 taking effect, the fiscal 2022 capital budget, as enacted, included the funding (with EGRC receiving a total of \$60.0 million and HSFH receiving a total of \$70.0 million, including \$40.0 million in federal funds from the American Rescue Plan).

Prior to distributing funds under the program, MSA must enter into a program memorandum of understanding (MOU) with IAC (which is in place), and each county, local school board, and MSA must enter into a project MOU for each project seeking funding from the program. All projects receiving Built to Learn funds must be approved by IAC using the same process it uses for PSCP. As of November 2023, IAC has approved 37 projects and committed more than \$1.0 billion in funding to those projects.

### *Eligible School Construction Costs*

IAC establishes a range of appropriate per-student, square-foot allocations for elementary, middle, and high schools as well as for special education students, career and technology students, and specialized programs. IAC updated the space allocations in 2019 and renamed them gross area baselines. IAC also establishes, on an annual basis, a *cost per square foot* that is applicable to major school construction projects. For fiscal 2025, the cost per square foot is \$404 for new construction *without* site development (up from \$385 in fiscal 2024) and \$481 for new construction *with* site development (up from \$458 in fiscal 2024). In general, multiplying the cost per square foot by the applicable gross area baseline for each proposed project (based primarily on the State-rated capacity of a building) yields the maximum allowable cost that is subject to the State/local cost-share formula. Thus, any portion of a project that exceeds the gross area baseline is not eligible for State funding and must be paid for by the local school system.

The cost of acquiring land may not be considered an eligible construction cost and may not be paid by the State. Otherwise, regulations specify public school construction-related costs that are eligible and ineligible for State funding. Chapter 20 expands the costs eligible for State funding. In general, the following costs are now included among *eligible* expenses:

- planning and design costs (including architectural and engineering fees);
- construction of a new facility, a renovation of a new facility, an addition to an existing facility, or a replacement of an existing building or building portion (*i.e.*, “bricks and mortar”);
- building and site development;
- replacement of building systems, including roofs; windows; and heating, ventilation, and air conditioning (*i.e.*, “systemic renovations”);
- modular construction that meets specified standards;
- State-owned relocatable facilities and temporary facilities that are required to be on site during construction; and
- furniture, fixtures, and equipment with a median useful life of at least 15 years.

Among the major items explicitly *not eligible* for State funding under current law (besides site acquisition) are (1) master plans and feasibility studies; (2) projects or systemic renovations for buildings and systems that have been replaced, upgraded, or renovated within the last 15 years; and (3) items that do not have a useful life of at least 15 years.

*State Share of Eligible Costs*

The State pays at least 50% of eligible costs of school construction and renovation projects, based on a funding formula that takes into account numerous factors, including each local school system’s wealth and ability to pay. The 21st Century School Facilities Act requires that the cost-share formula be recalculated every two years (previously, statute required recalculation every three years). **Exhibit 2** shows the State share of eligible school construction costs for all Maryland jurisdictions for fiscal 2023 and 2024; FY 2025; and FY 2026, as approved by IAC. Counties whose calculated State share would have been lower in fiscal 2023 than in fiscal 2022 were held harmless by Chapter 698 of 2021; Garrett County’s State share was adjusted in accordance with provisions of Chapter 698.

**Exhibit 2**  
**State Share of Eligible School Construction Costs**  
**Fiscal 2023 and 2024**

<u>County</u>	<u>FY 2023 and 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
Allegany	90%	89%	89%
Anne Arundel	50%	50%	50%
Baltimore City	96%	94%	91%
Baltimore	61%	59%	57%
Calvert	56%	56%	56%
Caroline	88%	94%	94%
Carroll	59%	57%	54%
Cecil	66%	64%	61%
Charles	65%	64%	64%
Dorchester	93%	98%	98%
Frederick	65%	67%	67%
Garrett	90%	89%	89%
Harford	63%	61%	58%
Howard	56%	54%	51%
Kent	50%	50%	50%
Montgomery	50%	50%	50%
Prince George’s	73%	71%	68%
Queen Anne’s	51%	50%	50%
St. Mary’s	58%	58%	58%
Somerset	100%	100%	100%

<u>County</u>	<u>FY 2023 and 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
Talbot	50%	50%	50%
Washington	79%	78%	78%
Wicomico	100%	98%	95%
Worcester	50%	50%	50%
Maryland School for the Blind	93%	89%	89%

Source: Interagency Commission on School Construction

### *State Funding Levels*

Chapter 14 of 2018, the 21st Century School Facilities Act, established the State’s intent to provide at least \$400.0 million annually, within current debt affordability guidelines. The State surpassed the \$400.0 million threshold in fiscal 2019, 2021, 2022, and 2023; the State would have surpassed \$400.0 million in fiscal 2020, but the \$10.0 million allocation for the School Safety Grant Program (SSGP) was canceled by the Board of Public Works for cost containment reasons. Chapter 679 of 2023 repeals both SSGP and the Aging Schools Program beginning fiscal 2027 with the intent that funding for those programs be transferred to the Priority Fund, which takes effect that year. **Exhibit 3** shows annual State public school construction funding from fiscal 2020 through 2024, by county.

The fiscal 2025 operating and capital budgets, as introduced, provide more than \$900 million in funding for public school construction projects in the State, divided among general obligation (GO) bond funding, revenue bonds, and special funds. The total includes:

- \$425.4 million in MSA revenue bonds for Built to Learn;
- \$313.9 million in GO funds for PSCP;
- \$40.0 million in GO funds for EGRC;
- \$90.0 million in GO funds for HSFF;
- \$6.1 million in GO funds for the Aging Schools Program; and
- \$27.0 million in special funds for public-private partnerships for school construction in Prince George’s County under Build to Learn.

**Exhibit 3**  
**State Public School Construction Funding**  
**Fiscal 2020-2024**  
**(\$ in Thousands)**

<b><u>County</u></b>	<b><u>FY 2020</u></b>	<b><u>FY 2021</u></b>	<b><u>FY 2022</u></b>	<b><u>FY 2023</u></b>	<b><u>FY 2024</u></b>
Allegany	\$2,846	\$2,080	\$2,515	\$4,116	\$5,742
Anne Arundel	36,422	38,053	148,762	105,008	58,141
Baltimore City	51,304	69,479	81,905	304,638	154,841
Baltimore	58,936	53,015	257,425	118,800	75,823
Calvert	2,227	4,141	13,416	8,678	5,171
Caroline	11,603	13,713	4,741	2,257	4,469
Carroll	7,604	10,312	38,693	20,955	16,609
Cecil	4,046	3,856	5,412	6,865	42,912
Charles	13,938	12,455	32,131	35,237	21,031
Dorchester	4,068	5,955	6,578	4,670	6,114
Frederick	16,636	22,832	55,009	48,808	43,608
Garrett	443	1,795	12,147	11,061	15,316
Harford	12,975	12,964	47,235	12,680	33,455
Howard	6,494	32,508	63,374	71,539	26,993
Kent	1,389	3,193	119	2,331	1,672
Montgomery	59,107	55,710	190,879	43,540	110,357
Prince George's	52,276	47,065	42,153	124,264	76,967
Queen Anne's	667	1,248	2,318	4,526	6,934
St. Mary's	4,762	5,530	5,723	7,878	15,951
Somerset	3,161	3,100	776	266	9,409
Talbot	9,000	3,173	1,342	1,129	2,323
Washington	11,687	8,311	8,669	10,413	14,903
Wicomico	11,340	10,399	26,062	33,416	22,072
Worcester	4,336	1,475	4,975	308	689
Maryland School for the Blind	7,401	6,779	2,021	15,209	13,605
Statewide	0	5,794	6,500	44,283	20,063
<b>Total</b>	<b>\$394,668</b>	<b>\$434,933</b>	<b>\$1,060,882</b>	<b>\$1,042,875</b>	<b>\$805,170</b>

Notes: Includes general obligation bonds, Built to Learn revenue bonds, pay-as-you-go funds, and reallocated funds that were previously authorized. Counties receiving \$0 did not request any eligible projects to be funded in that year. Allocated funds include the Enrollment Growth or Relocatable Classroom program, School Safety grants, and Healthy School Facility grants. Statewide funds include unallocated discretionary funds, contractual costs for external reviews, and funds reserved for unforeseen contingencies. Columns may not sum to total due to rounding.

Source: Interagency Commission on School Construction; Department of Legislative Services